

entering the appearance of defendants, to note in the margin of the docket the time of such appearance entered; and if the appearance be by solicitor, and there be more than one defendant, the clerk shall note for which defendant the appearance is entered; and the court or judge thereof may, for special reason shown, extend or enlarge the time to answer, according to the nature and circumstances of the case.

Where a decree *pro confesso* is entered fifteen days after the defendant's appearance, but testimony is taken more than two months after the entry of said decree and upon notice to the defendant, and such testimony remained in court the required time before a final decree was passed, the latter decree will not be reversed on account of the irregularity in entering the decree *pro confesso* before the expiration of twenty days from the appearance. *Bailey v. Jones*, 107 Md. 405.

This section by implication authorizes an appearance *in propria persona*. *Ankam v. Zantzinger*, 94 Md. 425.

This section referred to in upholding a decree *pro confesso*. *Harrison v. Morton*, 87 Md. 676

1904, art. 16, sec. 140. 1888, art. 16, sec. 127. Rule 12.

149. Upon service of process, or notice given by publication, as the case may be, the adult defendants, not being insane, shall appear and file their answer, plea or demurrer, to the bill or petition, within the time allowed by this article, or by the terms of the order of publication, or special order for the extension of time; and in default of appearance, or of answer, plea or demurrer, after appearance within the time allowed, the plaintiff may, at his election, obtain an order as of course, that the bill be taken *pro confesso* as against such defendants; and thereupon the cause shall be proceeded with *ex parte* as against the defendants so in fault; and the matter of the bill or petition may be decreed by the court or judge thereof at any time after the lapse of thirty days from the date of the order *pro confesso*, if there be no answer, plea or demurrer interposed, and the allegations of the bill or petition present a proper case for relief. But the court or judge thereof may, in all such cases, if it be deemed proper, order that the allegations of the bill or petition, or any of them, be supported by affidavit or deposition to be taken as may be directed.

The practice prevails in this state of requiring plaintiffs to support the allegations of a bill or petition by proof, and a final decree must be sanctioned by the evidence, although a decree *pro confesso* has passed. *Turpin v. Derickson*, 105 Md. 625. And see *Benson v. Ketchum*, 14 Md. 331; *Buckingham v. Peddicord*, 2 Bl. 447; *Purviance v. Barton*, 2 G. & J. 315.

No notice of the decree *pro confesso* is required. *Harrison v. Morton*, 87 Md. 677.

Proof taken *ex parte* can not be used against defendants who are not in default. *Kerr v. Martin*, 4 Md. Ch. 343.

For cases arising under article 16, section 115, of the code of 1860 (analogous in some of its provisions to this section), see *Rust v. Lynch*, 54 Md. 637; *Mondell v. Shafer*, 49 Md. 493; *Brown v. Kemper*, 27 Md. 674.

For cases dealing with the act of 1820, ch. 161, section 1 (analogous in its provisions to equity rule 12), see *Higgins v. Horwitz*, 9 Gill, 343; *Richardson v. Stillinger*, 12 G. & J. 479; *Hatton v. Weems*, 12 G. & J. 106; *Grove v. Fresh*, 9 G. & J. 280; *Neale v. Hagthorpe*, 3 Bl. 573; *Buckingham v. Peddicord*, 2 Bl. 454; *Campbell's Case*, 2 Bl. 219; *Ringgold's Case*, 1 Bl. 19.

No decree *pro confesso* may pass against infant or insane defendants—see sec. 204.

See notes to sections 148 and 152.